

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

WINTON L. BAKER)	
Claimant)	
VS.)	
)	Docket No. 181,984
EAGLE PICHER INDUSTRIES, INC.)	
Respondent)	
AND)	
)	
LIBERTY MUTUAL INSURANCE COMPANY)	
Insurance Carrier)	

ORDER

On May 16, 1996, the application of claimant for review by the Workers Compensation Appeals Board of an Award entered by Administrative Law Judge John D. Clark dated January 17, 1996, came on for oral argument.

APPEARANCES

Claimant appeared by and through his attorney, Timothy A. Short of Pittsburg, Kansas. Respondent and its insurance carrier appeared by and through their attorney Douglas D. Johnson of Wichita, Kansas. There were no other appearances.

RECORD AND STIPULATIONS

The record and stipulations as specifically set forth in the Award of the Administrative Law Judge are herein adopted by the Appeals Board. In addition, the Appeals Board has considered the revised wage stipulation submitted by the parties on May 16, 1996, showing claimant's average weekly wage to be \$290.67.

ISSUES

What is the nature and extent of claimant's injury and/or disability?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein, including the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

The Award of the Administrative Law Judge sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat those herein. The findings and conclusions enumerated in the Award of the Administrative Law Judge are both accurate and appropriate and the Appeals Board adopts same as its own findings and conclusions as if specifically set forth herein.

The Administrative Law Judge denied claimant any award for permanent disability as a result of the injuries suffered on March 4, 1993. Key to the Administrative Law Judge's decision were several indications in the record that claimant provided false information to the treating doctors and, at one time, was employed in Oklahoma working under a false name and false social security number while alleging entitlement to workers compensation benefits in Kansas. The Appeals Board finds that claimant is not a credible witness. The Appeals Board finds, based upon a preponderance of the credible evidence, that claimant has not proven he suffered permanent injury as a result of the accident suffered on March 4, 1993.

It is noted in the record and stipulations that claimant was paid three weeks temporary total disability compensation at the rate of \$160.00 per week. With the stipulated average weekly wage, claimant's temporary total disability compensation should have been \$193.79 per week for three weeks for a total of \$581.37. This represents an underpayment of \$101.37.

The stipulations also indicate claimant was furnished no medical care subsequent to this injury. As the parties agreed that claimant suffered accidental injury arising out of and in the course of his employment on the dates alleged, authorized medical care, had it been furnished, would have been awarded as well. Claimant is entitled, per the Award of the Administrative Law Judge to unauthorized medical treatment up to the statutory limit of \$350.00 upon presentation of an itemized statement verifying same. With the exception of the modification of the amount of temporary total disability compensation due and owing, the Award of the Administrative Law Judge John D. Clark dated January 17, 1996, is affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge John D. Clark dated January 17, 1996, should be affirmed in all respects with the exception of the amount of temporary total disability compensation due and owing. An award is granted to claimant for three weeks temporary total disability compensation at the rate of \$193.79 per week in the amount of \$581.37 all of which is due and owing in one lump sum minus amounts previously paid. Additional award is denied claimant for any permanency associated with the injuries suffered from the accident on March 4, 1993.

Claimant is entitled to unauthorized medical care up to the statutory maximum as above stated.

The fees necessary to defray the expense of the administration of the Workers Compensation Act are hereby assessed against the respondent and its insurance carrier to be paid as follows:

Delmont Reporting Services	
Transcript of Stipulations	\$ 71.90
Deposition of Kevin Komes, M.D.	\$Unknown
Patricia Smith, C.S.R.	
Deposition of regular hearing	\$174.75
Deposition of O.A. Mehaffy, M.D.	\$ 62.20
Deposition of Dale McCaw	\$ 62.20
Heather A. Lohmeyer, C.S.R.	
Deposition of William D. Smith, M.D.	\$Unknown
Vickie S. Barrett, C.S.R., C.M.	
Deposition of Jerry Dean Hardin	\$ 172.35
Hostetler & Associates	
Deposition of David J. Clymer, M.D.	\$ 149.13
Ireland Court Reporting	
Deposition of Karen Crist Terrill	\$ 171.36
Debra D. Oakleaf, C.S.R.	
Transcript of motion hearing	\$ 55.10
Rick L. Congdon, C.S.R.	
Deposition of Sandra Hoover	\$Unknown

Deposition of Pat Alschlager

\$Unknown

Alpha Reporting Service

Deposition of Richard Bergen

\$ 99.40

IT IS SO ORDERED.

Dated this ____ day of May 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Timothy A. Short, Pittsburg, KS
Douglas D. Johnson, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director